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10/797,953	03/11/2004	Kari Niemela	P2981US00	4858

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DITTHAVONG MORI & STEINER, P.C.
918 Prince Street
Alexandria, VA 22314

EXAMINER

HEIBER, SHANTELL LAKETA

ART UNIT	PAPER NUMBER
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2617

NOTIFICATION DATE	DELIVERY MODE
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04/05/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/797,953	Applicant(s) NIEMELA, KARI	
	Examiner SHANTELL HEIBER	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 35-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 35-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/11/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-30 and 35-44 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 29 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 29 claims a computer-readable medium where the specification specifically mentions examples of computer-readable medium that include carrier wave signals and wireless media (e.g., a computer readable signal, a computer readable telecommunication signal) (see paragraph 0057) which do not fall under statutory subject matter.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 15, 16, 29 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Anttila et al. (Anttila), U.S. Publication No. 2003/0114224.

Regarding Claims 1, 15, 29 and 44, Anttila discloses a wireless portable game terminal (**i.e., mobile terminal 401; see figure 4**) comprising:

a radio transceiver (**i.e., transceiver 405; see figure 4**) configured to transfer speech (**i.e., audio data; see paragraph [0027]**) and game data (**i.e., audio and/or video data for responding to the game task; see paragraph [0027]**) through a radio connection (**see figure 1**) to a telecommunication system (**see figure 1**);

a loudspeaker configured to reproduce audio (**i.e., audio data is played over the mobile terminal's speaker; see paragraphs [0027] and [0032]**);

a microphone configured to capture speech of a user of the wireless portable game terminal (**i.e., the user is able to respond to the game task with audio data using a microphone; see paragraph [0027]**); and

a processing unit (**i.e., processor 403; see figure 4**) coupled to the radio transceiver, the loudspeaker and the microphone configured to process the game data, to transfer the game data to and from another game terminal or a game server (**i.e., game server 101; see figure 1**) through the radio connection (**i.e., the game task is transferred to the mobile terminal such that it is played over the mobile terminal's speaker and/or display screen and the response to the game task is transferred to the game server such that the game server receives audio and/or video data; see paragraph [0027] and figure 1**), to receive captured speech of another user through the radio connection (**i.e., the task may comprise submitting voice recordings, for example, first player's submitted noun, second player's submitted verb, third player's submitted adjective; see paragraph [0028]**), to output audio part of the

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game data and the captured speech of the other user through the loudspeaker (**i.e., audio data is played over the mobile terminal's speaker; see paragraphs [0027] and [0032]**), to capture speech of an user with the microphone, and to transfer the captured speech of the user to another game terminal or to a game server through the radio connection (**i.e., the user is able to respond to the game task with audio data using a microphone such that the game server receives audio data; see paragraph [0027] and figure 1).**

Regarding Claims 2 and 16, Anttila discloses wherein the processing unit and the transceiver are further configured to transfer the game data as in-band signaling in a speech channel of the radio connection (**i.e., the user responds with audio data corresponding to the game task such that the audio data is a specific response to the request submitted within the game task; see paragraph [0027]).**

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-6, 10-14, 17-20 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anttila in view of Heden, U.S. Publication No. 2006/0165027.

Regarding Claims 3 and 17, Anttila discloses the wireless portable game terminal and method wherein the processing unit and the transceiver are further configured to transfer speech and the game data in a data channel of the radio

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connection as described above. Anttila does not disclose packet-switched data channel.

In a similar field of endeavor, Heden discloses considering mobile station capability in negotiating quality of service for packet switched services. Heden further discloses packet-switched data channel. **(see paragraph [0019])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila with the teachings of Heden to arrive at the claimed invention for allowing devices to communicate effectively in a network using packet data yielding predictable results.

Regarding Claims 4 and 18, Anttila discloses the wireless portable game terminal and method wherein the processing unit and the transceiver are further configured to transfer speech and the game data in a data channel of the radio connection as described above. Anttila does not disclose circuit-switched data channel.

Heden further discloses circuit-switched data channel. **(see paragraph [0019])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila with the teachings of Heden to arrive at the claimed invention for allowing devices to communicate in real time effectively in a network using voice data yielding predictable results.

Regarding Claims 5, 10, 12, 19, 24 and 26, Anttila discloses the wireless portable game terminal and method wherein the processing unit and the transceiver are further configured to transfer the game data utilizing a signaling resource **(i.e., audio and/or video)** and gaming specific resource **(i.e., game task)** of the radio connection

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as described above. Anttila does not disclose wherein the radio connection comprises a Dual Transfer Mode DTM radio connection.

Heden further discloses wherein the radio connection comprises a Dual Transfer Mode DTM radio connection **(i.e., the mobile station has the capability to support DTM; see paragraph [0030])**.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila with the teachings of Heden to arrive at the claimed invention for allowing simultaneous transfer of circuit switched voice and packet switched data over the same radio channel.

Regarding Claims 6 and 20, Anttila discloses the wireless portable game terminal and method wherein the processing unit and the transceiver are further configured to transfer the game data as described above. Anttila does not disclose utilizing a General Packet Radio Service Transparent Transport Protocol GTTP.

Heden further discloses utilizing a General Packet Radio Service Transparent Transport Protocol GTTP. **(see paragraphs [0023] and [0026])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila with the teachings of Heden to arrive at the claimed invention for allowing the user to continue connection when mobile such that the user is able to concentrate on the task rather than on the technology.

Regarding Claims 11, 13, 25 and 27, Anttila discloses the wireless portable game terminal and method wherein the gaming specific resources comprises gaming specific attributes **(i.e., game task comprising request for specific audio and/or**

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video data) as described above. Anttila does not disclose wherein the signaling resource comprises a Packet Flow Context PFC defined for the signaling and wherein the gaming specific resource comprises a Packet Flow Context PFC defined by gaming specific Quality of Service attributes.

Heden further discloses wherein the signaling resource comprises a Packet Flow Context PFC defined for the signaling and wherein the specific resource comprises a Packet Flow Context PFC defined by specific Quality of Service attributes. **(see paragraph [0031])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila with the teachings of Heden to arrive at the claimed invention for allowing the sharing of BSS QOS information to be shared among several mobiles for determining load conditions and cell capabilities.

Regarding Claims 14 and 28, Anttila discloses the wireless portable game terminal and method wherein the gaming specific resources comprises gaming specific attributes **(i.e., game task comprising request for specific audio and/or video data)** as described above. Anttila does not disclose wherein the gaming specific resource comprises a Temporary Block Flow TBF defined by gaming specific Quality of Service attributes.

Heden further discloses wherein the specific resource comprises a Temporary Block Flow TBF defined by specific Quality of Service attributes. **(see paragraph [0030])**

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila with the teachings of Heden to arrive at the claimed invention for allowing the mobile station to assist in cell change for maintaining quality of service.

7. Claims 7-9 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anttila and Heden in view of Marejka et al. (Marejka), U.S. Publication No. 2003/0135639.

Regarding Claims 7 and 21, Anttila and Heden disclose the wireless portable game terminal and method wherein the processing unit is further configured to transfer the game data utilizing the GTTP as described above. Anttila and Heden do not disclose further configured to check delay requirements of the game data, and to transfer the game data, if the delay requirements meet a predetermined delay limit.

In a similar field of endeavor, Marejka discloses a system monitoring service using throttle mechanisms to manage data loads and timing. Marejka further discloses further configured to check delay requirements (**i.e., delay period**) of the data (**i.e., message**), and to transfer the data, if the delay requirements meet a predetermined delay limit (**i.e., not exceeding the value of the decremental counter**)(see **paragraphs [0042], [0043] and [0057]**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila and Heden with the teachings of Marejka to arrive at the claimed invention for preventing loss or slowing of data transmissions.

Regarding Claims 8 and 22, Anttila and Heden disclose the wireless portable game terminal and method wherein the processing unit is further configured to transfer the game data utilizing the GTTP as described above. Anttila and Heden do not disclose further configured to check the volume of the game data, and to transfer the game data, if the volume meets a predetermined volume limit.

Marejka discloses further discloses further configured to check the volume (**i.e., volume per transmission period**) of the data (**i.e., data message**), and to transfer the data, if the volume meets a predetermined volume limit (**i.e., allowed volume of data for a particular transmission period**)(see paragraphs [0013], [0032] and [0041]).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila and Heden with the teachings of Marejka to arrive at the claimed invention for preventing congestion in data communication networks.

Regarding Claims 9 and 23, Anttila and Heden disclose the wireless portable game terminal and method wherein the processing unit is further configured to transfer the game data utilizing the GTTP as described above. Anttila and Heden do not disclose further configured to check the block size of the game data, and to transfer the game data, if the block size meets a predetermined block size limit.

Marejka discloses further configured to check the block size (**i.e., size**) of the data (**i.e., data message**), and to transfer the data, if the block size meets a predetermined block size limit (**i.e., if the size of the data message does not exceed the threshold for the current transmission period**)(see paragraph [0014]).

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At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila and Heden with the teachings of Marejka to arrive at the claimed invention for preventing congestion in data communication networks.

8. Claims 30, 35 and 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anttila in view of Heden.

Regarding Claim 30, Anttila discloses a network element (**i.e., game server 101; see figure 1**) of a telecommunication system comprising:

a radio transceiver configured to transfer speech and game data in a radio connection (**i.e., the game server distributes task comprising audio data to each game player, each of whom may provide an audio response; see paragraphs [0018], [0027] and figure 1**); and

a processing unit (**i.e., processor 315; see figure 3**) coupled to the radio transceiver, configured to transfer the speech and the game data to and from a wireless portable game terminal through the radio connection (**i.e., the game task is transferred to the mobile terminal such that it is played over the mobile terminal's speaker and/or display screen and the response to the game task is transferred to the game server such that the game server receives audio and/or video data; see paragraph [0027] and figure 1**). Anttila fails to disclose a Dual Transfer Mode DTM radio connection.

Heden discloses a Dual Transfer Mode DTM radio connection (**i.e., the mobile station has the capability to support DTM; see paragraph [0030]**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila with the teachings of Heden to arrive at the claimed invention for allowing simultaneous transfer of circuit switched voice and packet switched data over the same radio channel.

Regarding Claim 35, it is interpreted and rejected for similar reasons as set forth in claim 30. In addition, Heden discloses utilizing a General Packet Radio Service Transparent Transport Protocol GTTP. **(see rejection for claim 6 above)**

Regarding Claims 39 and 41, it is interpreted and rejected for similar reasons as set forth in claims 30 and 35. In addition, Heden discloses utilizing a DTM radio connection. **(see rejection for claims 10 and 12 above)**

Regarding Claims 40 and 42, it is interpreted and rejected for similar reasons as set forth in claims 39 and 41. In addition, Heden discloses wherein the signaling resource comprises a Packet Flow Context PFC defined for the signaling and wherein the specific resource comprises a Packet Flow Context PFC defined by specific Quality of Service attributes. **(see rejection for claims 11 and 13 above)**

Regarding Claim 43, it is interpreted and rejected for similar reasons as set forth in claim 41. In addition, Heden discloses wherein the specific resource comprises a Temporary Block Flow TBF defined by specific Quality of Service attributes. **(see rejection for claim 14 above)**

9. Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anttila and Heden in view of Marejka.

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Regarding Claim 36, Anttila and Heden disclose the network element wherein the processing unit is further configured to transfer the game data utilizing the GTTP as described above **(see rejection for claim 7)**. Anttila and Heden do not disclose further configured to check delay requirements of the game data, and to transfer the game data, if the delay requirements meet a predetermined delay limit.

Marejka discloses further configured to check delay requirements of the data, and to transfer the data, if the delay requirements meet a predetermined delay limit **(see rejection for claim 7)**.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila and Heden with the teachings of Marejka to arrive at the claimed invention for preventing loss or slowing of data transmissions.

Regarding Claim 37, Anttila and Heden disclose the network element wherein the processing unit is further configured to transfer the game data utilizing the GTTP as described above **(see rejection for claim 8)**. Anttila and Heden do not disclose further configured to check the volume of the game data, and to transfer the game data, if the volume meets a predetermined volume limit.

Marejka discloses further configured to check the volume of the data, and to transfer the data, if the volume meets a predetermined volume limit **(see rejection for claim 8)**.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila and Heden with the teachings of

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Marejka to arrive at the claimed invention for preventing congestion in data communication networks.

Regarding Claim 38, Anttila and Heden disclose the network element wherein the processing unit is further configured to transfer the game data utilizing the GTTP as described above **(see rejection for claim 9)**. Anttila and Heden do not disclose further configured to check the block size of the game data, and to transfer the game data, if the block size meets a predetermined block size limit.

Marejka discloses further configured to check the block size of the data, and to transfer the data, if the block size meets a predetermined block size limit **(see rejection for claim 9)**.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Anttila and Heden with the teachings of Marejka to arrive at the claimed invention for preventing congestion in data communication networks.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANTELL HEIBER whose telephone number is (571)272-0886. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edouard Patrick can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H./
Examiner, Art Unit 2617
March 12, 2010

/Patrick N. Edouard/
Supervisory Patent Examiner, Art Unit 2617